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9 Attorneys for Defendant
10 THOMAS J. TOMANEK

11
12 IN THE UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 EDITH MACIAS, individually and on behalf
17 of similarly situated individuals; HOTON
18 DURAN; TIFFANY HUYNH; AURA
19 MENDIETA; WILLIAM LABOY; MIGUEL
20 ACOSTA; CRUZ ACOSTA; CUAUHTEMOC
21 TORAL; and TERESA VILLEGAS,

22 Plaintiffs,

23 vs.

24 THOMAS J. TOMANEK; and MARK
25 GARIBALDI, individually and doing business
as THE GARIBALDI COMPANY,

Defendants.

Case No.: C07 3437 JSW

**[PROPOSED] ORDER GRANTING
DEFENDANT THOMAS J. TOMANEK'S
MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION
[FRCP 12(b)(1)]**

DATE: February 15, 2008

TIME: 9:00 a.m.

COURTROOM: 2, 17th Floor

JUDGE: Hon. Jeffrey S. White

1 The motion of defendant Thomas J. Tomanek to dismiss for lack of subject matter
2 jurisdiction came on regularly for hearing on February 15, 2008, The Honorable Jeffrey S.
3 White presiding. Sara B. Allman, Esq. appeared for defendant Thomas J. Tomanek. John
4 Blackman, Esq. appeared for defendant Mark Garibaldi individually and dba The Garibaldi
5 Company. Christopher Brancart, Esq. appeared for plaintiffs.

6 WHEREFORE, the court having read and considered the papers submitted and heard
7 arguments of counsel, and good cause appearing;

8 IT IS HEREBY ORDERED THAT:

- 9 1. The motion of defendant Thomas J. Tomanek to dismiss for lack of subject matter
10 jurisdiction is granted; and
11 2. The action is hereby dismissed.

12 SO ORDERED.

13 Dated: _____

The Honorable Jeffrey S. White
U.S. District Judge

PROOF OF SERVICE

I am a citizen of the United States and employed in Marin County, California. I am over the age of eighteen years and not a party to the within action. My business address is 100 Larkspur Landing Circle, Suite 212, Larkspur, California 94939-1743.

On this date I served the foregoing documents described as:

**[PROPOSED] ORDER GRANTING DEFENDANT THOMAS J. TOMANEK'S
MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION
[FRCP 12(b)(1)]**

on the interested parties in the action by placing ☐ the original ☒ a true copy thereof, enclosed in a sealed envelope addressed as follows:

Christopher Brancart
Elizabeth Brancart
BRANCART & BRANCART
PO Box 686
Pescadero, CA 94060

Attorney for Plaintiffs EDITH MACIAS,
individually and on behalf of similarly
situated individuals; HOTON DURAN;
TIFFANY HUYNH; AURA MENDIETA;
WILLIAM LABOY; MIGUEL ACOSTA;
CRUZ ACOSTA; CUAUHTEMOC TORAL;
and TERESA VILLEGAS

John S. Blackman
Farbstein & Blackman
411 Borel Ave #425
San Mateo, CA 94402-3518

Attorneys for Defendant
MARK GARIBALDI, individually and
doing business as THE GARIBALDI
COMPANY

☒ BY MAIL: I deposited such envelope with postage thereon fully prepaid in the United States Postal Service mailbox at Larkspur, California.

☐ BY PERSONAL SERVICE: I delivered such envelope by hand to the addressee.

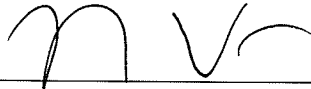
☐ BY FACSIMILE: I sent such document via facsimile to the facsimile machine of the addressee.

☐ BY EXPRESS MAIL: I deposited such envelope in a mailbox regularly maintained by the United States Postal Service for receipt of Express Mail postage paid to be delivered by Express Mail for overnight courier service to the addressee.

☐ BY OVERNIGHT DELIVERY: I deposited the envelope, in an envelope designated by the express service carrier, with delivery fees provided for, in a box regularly maintained by the express service carrier for overnight delivery.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct to the best of my knowledge.

3 Executed on September 13, 2007, at Larkspur, California.

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